

OFFICE OF THE GOVERNOR
STATE OF HAWAII

PROCLAMATION

By the authority vested in me as Governor by the Constitution and laws of the State of Hawaii, in order to prevent the danger of disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, NEIL ABERCROMBIE, Governor of the State of Hawaii, hereby determine, designate and proclaim as follows:

WHEREAS, since the late 1990's, the Department of Transportation has been monitoring and recording ground movements on Kuhio Highway, Route 560 at mile post 5.3 in Lumahai on the north shore of the Island of Kauai; and

WHEREAS, due to the recent increase in ground movement, there has arisen an immediate threat of collapse of Kuhio Highway in the Lumahai area; and

WHEREAS, Kuhio Highway is the only route which provides transportation through the Wainiha and Haena areas of the County of Kauai; and

WHEREAS, the closure of a portion of Kuhio Highway for an extended period of time thereby isolating the residents and businesses in the Wainiha and Haena areas will endanger the health, safety, and welfare of the people, and the economy of the State; and

WHEREAS, the environmental permitting, design and construction of a permanent bypass road around the distressed portion of the highway is expected to take more than 4 years to complete; and

WHEREAS, the damage, losses, and suffering potentially attributable to the imminent failure of Kuhio Highway are of such nature as to warrant rehabilitative assistance from the State; and

WHEREAS, prompt, expeditious action is necessary to deal with the emergency slope stabilization repairs to assure the safety of the public; and

WHEREAS, because §127-10, Hawaii Revised Statutes, provides that when §127-1 to §127-9, Hawaii Revised Statutes (pertaining to disaster relief), are not in effect, the Governor may exercise any and all of the Governor's powers that relate to disasters resulting from enemy attacks, as contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief; and

WHEREAS, because §127-1 to §127-9, Hawaii Revised Statutes, have been indefinitely suspended, the Governor may exercise any and all of the Governor's powers contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief, and during the applicable civil defense emergency period, the provisions set forth in chapter 128, Hawaii Revised Statutes, are made applicable to other disaster relief; and

WHEREAS, pursuant to §128-8(4), Hawaii Revised Statutes, the Governor is authorized to suspend any law which impedes or tends to impede, is detrimental to, or conflicts with, the expeditious and efficient execution and implementation of disaster relief or other emergency functions; and

WHEREAS, pursuant to §128-9(8), Hawaii Revised Statutes, the Governor is further authorized to relieve hardship and inequities or obstructions to the public health, safety, and welfare, found by the Governor to exist in the laws by suspending laws in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose.

NOW, THEREFORE, I, NEIL ABERCROMBIE, Governor of the State of Hawaii, hereby determine that a danger or threat of disaster contemplated by chapters 127 and 128, Hawaii Revised Statutes, currently exists within the Lumahai area of the County of Kauai; and

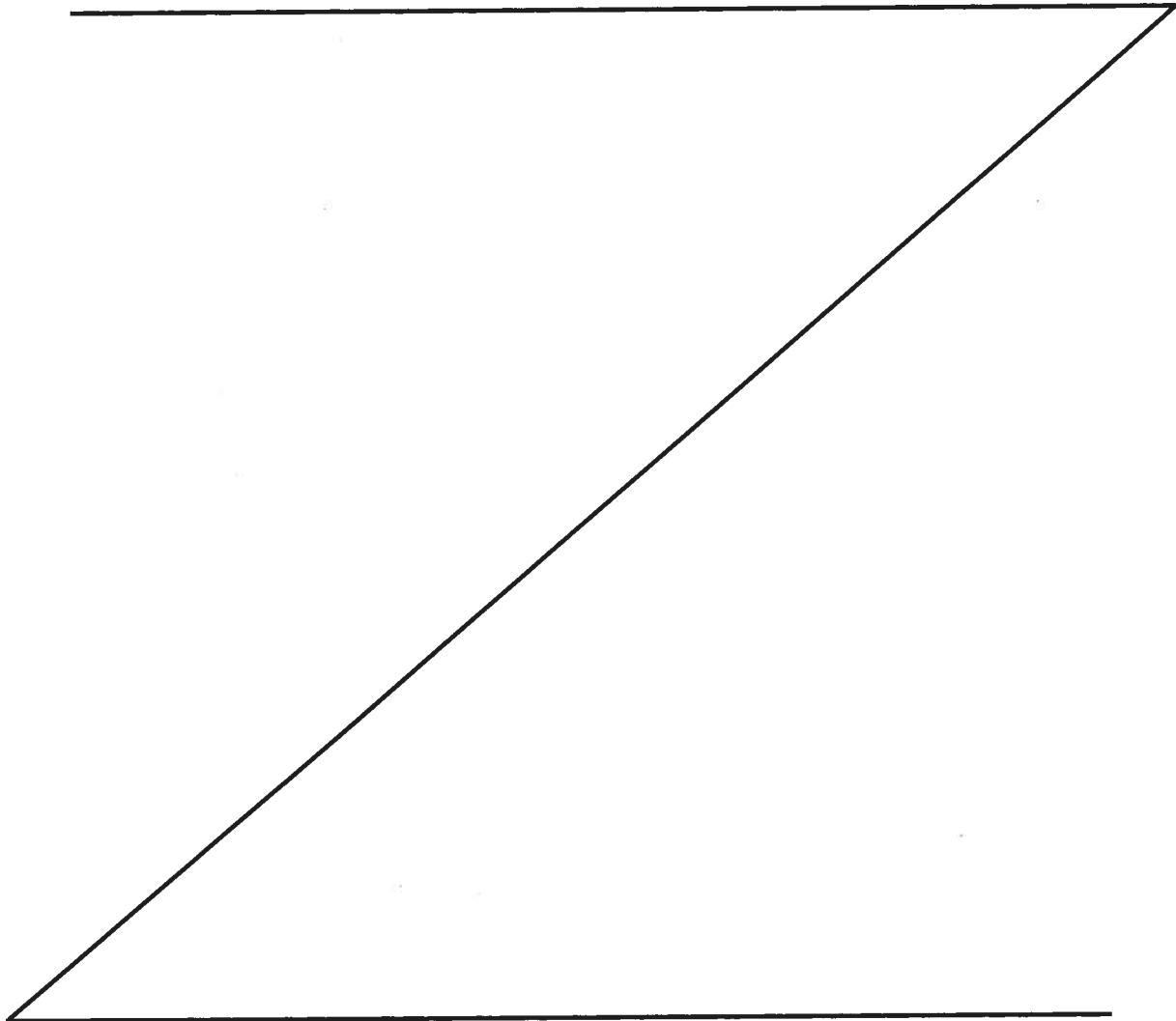
I. Proclamation of disaster. Do hereby proclaim this area to be a disaster area for the purpose of authorizing the expenditure of State monies as appropriated for the speedy and efficient measures to avoid damages, losses, and suffering that will result with the failure of Kuhio Highway by designing and constructing temporary slope stabilization measures beneath the pavement until the Department of Transportation has completed ongoing efforts to construct a bypass road, which upon completion will include closure of the affected portion of Kuhio Highway from vehicular travel; and

II. Exercise of emergency relief powers. Do hereby declare that all preconditions for exercising the powers and authority granted to me under §127-11, §128-8(4), and §128-10(10), Hawaii Revised Statutes, have been found and satisfied, and that I hereby exercise such powers and authority in relation to this disaster; and

III. Implementation of specific measures. In order to provide expeditious and efficient performance, execution, and implementation of measures to avert the danger or threat of disaster to and in accordance with §128-8(4), 128-9(8), and 128-10(10), Hawaii Revised Statutes, I hereby suspend, as allowed by federal law, the following statutes to the extent necessary to reduce the danger of the failure of the highway pavement and embankment, and to repair and install temporary slope stabilization measures, with any necessary improvements and mitigation efforts, in order to keep Kuhio Highway open for use in the Wainiha and Haena areas of the County of Kauai, State of Hawaii:

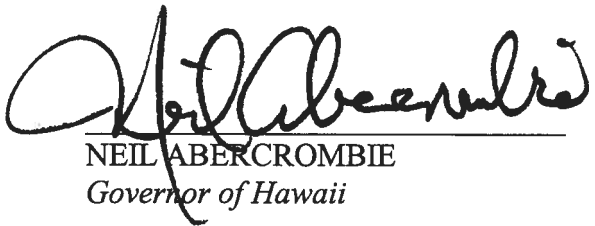
1. Chapter 6E, **historic preservation.**
2. Chapter 46, **county organization and Administration** as any county ordinance, rule, regulation, law, or provision in any form applies to any county permitting, licensing, zoning, variance, processes, procedures, fees, or any other requirements that hinder, delay, or impede the purpose of this Proclamation.
3. Chapter 103D, **procurement code.**
4. Chapter 174C, **state water code.**
5. Chapter 183, **forest reserves, water development, zoning.**
6. Chapter 183C, **conservation district.**

7. Chapter 183D, **wildlife.**
8. Chapter 195D, **conservation of aquatic life, wildlife, and land plants.**
9. Chapter 205, **land use commission.**
10. Chapter 205A, **coastal zone management.**
11. Chapter 264, **highways.**
12. Chapter 269, **public utilities commission.**
13. Chapter 341, **environmental quality control.**
14. Chapter 342B, **air pollution.**
15. Chapter 342D, **water pollution.**
16. Chapter 342E, **nonpoint source pollution management and control.**
17. Chapter 343, **environmental impact statements.**
18. Chapter 344, **state environmental policy.**




IV. Pursuant to and in accordance with §128-10(5), Hawaii Revised Statutes, I hereby direct, in order to provide emergency disaster relief, all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate or significantly reduce the potential danger of the failure of Kuhio Highway, and to keep Kuhio Highway open for use by residents through the Wainiha and Haena areas of the County of Kauai.

Done at the State Capitol, State of
Hawaii, this 27 day of September,
2011.



NEIL ABERCROMBIE
Governor of Hawaii

APPROVED:



DAVID M. LORIE
Attorney General
State of Hawaii